

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

WEDNESDAY, THE TWELFTH DAY OF APRIL
TWO THOUSAND AND TWENTY THREE

**PRESENT
THE HONOURABLE SRI JUSTICE K.SURENDER**

CRIMINAL PETITION NO: 701 OF 2020

Between:

Kanneboina Rajashekar, S/o.Rajaiah, Aged about 41 years, occu. Business, R/o H. No. 20-369/A/5, near Tetra Hedron High School, Vidyanagar, Saidapur Road, Huzurabad village and Mandal proper, Karimnagar District. 505 468

...PETITIONER/ACCUSED

AND

1. The State of Telangana, rep., by its Public Prosecutor, High Court of Telangana, at Hyderabad

.....1st Respondent/ State

2. Nune Satyanaryana, S/o.Rajaiah, Aged about 54 years, Occu. Business, R/o H. No. 12-299/1, Warangal Road, Huzurabad village and Mandal proper, Karimnagar District. 505 468.

...2nd RESPONDENT/COMPLAINANT

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to call for the records relating to the Order dated 24.10.2019 passed in C.C No. 513 of 2018 on the file of I Additional Judicial Magistrate of First Class at Huzurabad, Karimnagar District and quash the entire proceedings including the Order dated 24/10/2019 and pass such other order or orders

I.A. NO: 2 OF 2020

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings including the execution of the order passed on 24.10.2019 in C.C No.513 of 2018 on the file of I Additional Judicial Magistrate of First Class at Hozurabad, Karimnagar District, pending disposal of the above Criminal Petition and pass such other order or orders

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri.T.DAYANANDA RAO, Advocate for the Petitioner and of the Additional Public Prosecutor for the State of Telangana on behalf of the Respondent No.1

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.701 OF 2020****ORDER:**

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure (for short "Cr.P.C.") by the petitioner – accused to quash the entire proceedings against him in C.C.No.513 of 2018 pending on the file of learned I Additional Judicial I Class Magistrate, Huzurabad, including the order dated 24.10.2018.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent – State. Perused the record.

3. The 2nd respondent filed a complaint stating that on 17.02.2018, he advanced an amount of Rs.21,00,000/- to the petitioner for his business purposes and after receipt of said amounts, the petitioner executed a promissory note in favour of the 2nd respondent in the presence of witnesses agreeing to repay the same within six months with interest @ 12% per annum. On the demand of 2nd respondent, the petitioner issued a cheque bearing No.00014 dated 14.08.2018 in favour of the 2nd respondent and on presentation, the said cheque was returned unpaid on the ground of 'funds insufficient'. The 2nd respondent got issued legal notice to the

petitioner on 23.08.2018 and on receiving the same, the petitioner issued a reply notice dated 04.09.2018 stating that the entire amount was repaid. Thereafter, the complaint was lodged by 2nd respondent for the offence punishable under Section 138 of the Negotiable Instruments Act, aggrieved by the fact that the amount covered by the cheque was not paid even after issuance of notice.

4. Learned counsel for the petitioner would submit that there is a clear admission on the part of the 2nd respondent that amounts were received, as such the question of prosecuting the petitioner does not arise. He further submits that as it is clearly mentioned in the complaint by the 2nd respondent that an amount of Rs.24,00,000/- was paid by the petitioner, there was no outstanding. In the said circumstances, when it is clear that the amount of Rs.24,00,000/- was accepted by the complainant in his complaint, the proceedings against the petitioner have to be quashed.

5. In the complaint, it is mentioned that the said amount of Rs.24,00,000/- pertains to previous transactions in between the petitioner and the 2nd respondent. It cannot be ascertained in a quash petition which is filed under Section 482 of Cr.P.C. whether the amounts pertain to previous transactions or pertain to repayment of

the amount covered by the cheque. All these questions of facts can only be ascertained during the course of trial. For the said reason, the petitioner fails and accordingly, the criminal petition is liable to be dismissed.

6. Since the case is of the year 2018, the learned I Additional Judicial I Class Magistrate, Huzurabad, is directed to conclude the process of trial as expeditiously as possible, within a period of three (03) months, from the date of receipt of a copy of this order, in accordance with law, without insisting upon the interim compensation vide docket order dated 24.10.2019.

7. Accordingly, the Criminal Petition is dismissed.

As a sequel thereto, miscellaneous applications, if any, pending, shall stand closed.

Sd/-MOHD. ISMAIL
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The I Additional Judicial First Class Magistrate, at Huzurabad.
2. Two CCs to the Public Prosecutor (TG), High Court for the State of Telangana at Hyderabad (OUT)
3. One CC to Sri T. Dayananda Rao, Advocate [OPUC]
4. Two CD Copies

Kj.

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HIGH COURT

DATED:12/04/2023

ORDER

CRLP.No.701 of 2020



DISMISSING THE CRL.P. WITHOUT COSTS.

⑦ Copies
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29/5/23